
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR Executive Order 60 (99)

Declaration of a State of Emergency for the Entire Commonwealth Due to Hurricane Floyd

On September 14, 1999, I verbally declared a state of emergency to exist for the entire Commonwealth of Virginia based on recent forecasts that predicted that Hurricane Floyd could cause damaging high winds, flash flooding, and possible tornadoes throughout the state. National Weather Service forecasts indicated that Hurricane Floyd would follow a track leading from south central to northeastern Virginia during the next 72 hours, resulting in the potential for significant rainfall causing river flooding and high wind damage in affected areas. In addition, Hurricane Floyd was expected to result in tidal flooding in southeastern Virginia and Central Chesapeake Bay and coastal areas.

The health and general welfare of the citizens of the localities that may be affected required that state action be taken to help prepare for and alleviate the conditions which may result from this situation. I also found that the potential effects of Hurricane Floyd constituted a natural disaster wherein human life and public and private property were imperiled, as described in Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued September 14, 1999, wherein I proclaimed that a state of emergency existed throughout the Commonwealth and directed that appropriate assistance be rendered by agencies of both state and local governments to prepare for and alleviate any conditions resulting from Hurricane Floyd, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions insofar as possible. Pursuant to Sections 44-75.1.A.3. and A.4. of the Code of Virginia, I also directed that the Virginia National Guard and the Virginia Defense Force be called forth to state duty to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia State Police to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police, in consultation with the State Coordinator of Emergency Services and the Adjutant General, and with the approval of the Secretary of Public Safety, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recovery from its effects, and in accordance with my authority contained in Section 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective and restoration measures:

- A. The full implementation by agencies of the state and local governments of Volume II, Virginia Emergency Operations Plan (COVEOP) for Peacetime Disasters, July 1997, as amended, along with its attendant Annex I-FF (Volume V), Virginia Hurricane Emergency Response Plan, and other appropriate state agency plans.
- B. Full activation of the Virginia Emergency Operations Center (VEOC) and State Emergency Response Team

(SERT). Furthermore, I am directing that the VEOC and SERT coordinate state operations in support of affected localities and the Commonwealth, to include issuing mission assignments to agencies designated in the COVEOP and others that may be identified by the State Coordinator of Emergency Services, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property and implementation of recovery activities.

- C. The authorization to assume control over the Commonwealth's state-operated telecommunications systems, as required by the State Coordinator of Emergency Services, in coordination with the Department of Information Technology, and with the prior consent of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the impending event, pursuant to Section 44-146.18 of the Code of Virginia.
- D. I hereby direct preparation for the evacuation of areas threatened or stricken by this storm. Following a declaration of a local emergency pursuant to Section 44-146.21 of the Code of Virginia, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response or recovery, pursuant to Section 44-146.17 (1) of the Code of Virginia, I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the Virginia Emergency Operations Center (VEOC), acting on behalf of the State Coordinator of Emergency Services, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different timetable both where local governing bodies have made such a determination and where local governing bodies have not made such a determination. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.
- E. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact, and the authorization of the State Coordinator of Emergency Services to enter into any other supplemental agreements, pursuant to Sections 44-146.17 (5) and 44-146.28:1. of the Code of Virginia, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Services is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, Section 44-146.28:1 of the Code of Virginia.
- F. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight/overwidth/registration/license exemptions to carriers transporting essential emergency relief supplies into and through the Commonwealth in order to support the disaster response and recovery.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle -- **24,000 Pounds**

Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers) -- **44,000 Pounds**

Single Unit (2 Axles) -- **44,000 Pounds**

Single Unit (3 Axles) -- **54,500 Pounds**

Tractor-Semitrailer (4 Axles) -- **64,500 Pounds**

Tractor-Semitrailer (5 or more Axles) -- **90,000 Pounds**

Tractor-Twin Trailers (5 or more Axles) -- **90,000 Pounds**

Other Combinations (5 or more Axles) **90,000 Pounds**

Per Inch of Tire Width in Contact with Road Surface -- **850 Pounds**

In addition to described overweight transportation privileges, carriers are also exempt from registration with Department of Motor Vehicles. This includes the vehicles enroute and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement. This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to Section 52-8.4 of the Code of Virginia.

The foregoing overweight transportation privileges and the regulatory exemption provided by Section

52.8.4.A of the Code of Virginia, and implemented in Section 19 VAC 30-20-40.B of the "Motor Carrier Safety Regulations," shall remain in effect for sixty (60) days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

- G. The discontinuance of provisions authorized in paragraph F above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.
- H. The designation of a State Recovery Task Force under the leadership of the Secretary of Commerce and Trade to promote public, private and industrial redevelopment projects and help sustain long-term community economic vitality in the aftermath of the disaster. This task force will also assist in the restoration of critical public health and safety systems and will do so in close coordination with the State Coordinator of Emergency Services as the individual responsible for ensuring implementation of short-term recovery programs.
- I. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs without regard to time-consuming procedures or formalities and without regard to application or permit fees or royalties. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (Section 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the Code of Virginia, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.
- J. Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in Section 44-146.28. of the Code of Virginia, other than costs defined in paragraph O below, in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 43 of Chapter 935, 1999 Virginia Acts of Assembly.
- K. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in Section 44-146.28 (b) of the Code of Virginia. Section 44-146.24 of the Code of Virginia also applies to the disaster activities of state agencies.
- L. Members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters and other identified and tasked by the State Coordinator of Emergency Services for specific disaster-related mission assignments are, in the performance of those assignments, designated as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of Section 44-146.23 (a) of the Code of Virginia.
- M. The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in pre-storm preparations and in alleviating the human suffering and damage to property as a result of Hurricane Floyd.

2. Pursuant to Section 52-6 of the Code of Virginia, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by Section 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject

to military command as prescribed by Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Services or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

N. The following conditions apply to service by the Virginia Defense Force:

1. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;

2. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;

3. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with Section 44-54.12 of the Code of Virginia; and

4. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof.

O. The costs incurred by the Department of Military Affairs and Virginia Defense Force in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 511 of Chapter 935, 1999 Virginia Acts of Assembly.

This Executive Order shall be effective retroactive to September 14, 1999, and shall remain in full force and effect until June 30, 2000, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any Federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this ___ day of October, 1999.

Governor James S. Gilmore, III

Attest: Secretary of the Commonwealth Anne P. Petera